

OREGON DEPARTMENT OF ENERGY

REGARDING APPLICATION REQUIREMENTS FOR
THE PROPOSED **SOUTH DUNES POWER PLANT**

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**AMENDED PROJECT
ORDER**

**ISSUED BY
OREGON DEPARTMENT OF ENERGY
625 Marion Street NE
Salem, OR 97301-3742**

**Issued February 14, 2013
Amended October 14, 2013**

PROJECT ORDER

PROPOSED FACILITY: SOUTH DUNES POWER PLANT

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1 **I. INTRODUCTION**

2 **A. Background**

3 On August 1, 2012, Jordan Cove Energy Project, L.P. (Applicant) submitted to the Oregon
4 Department of Energy (ODOE or the "Department") a Notice of Intent (NOI) to file an application
5 for a site certificate for a proposed natural gas fueled combined cycle generating plant. The
6 proposed facility, South Dunes Power Plant (South Dunes)), would be located on the North Spit on
7 Coos Bay, in Coos County, Oregon, north of the city of North Bend. As described in the NOI, the
8 South Dunes project would have an average and nominal electric generating capacity of 380
9 megawatts (MW). The facility will require a site certificate from the Oregon Energy Facility Siting
10 Council (EFSC or the "Council").

11 On August 21, 2012, ODOE issued a public notice of the NOI to the EFSC mailing list and to
12 adjacent property owners as defined at Oregon Administrative Rule (OAR) 345-020-0011(1)(f).
13 ODOE also published the notice on August 21, 2012, in the *Coos Bay World* newspaper. The public
14 notice included announcement of a public information meeting to be held September 11, 2012 in
15 North Bend, Oregon, and requested public comments on the NOI by 5:00 p.m. September 21,
16 2012. Approximately 18 people attended the September 11 information meeting.

17 On October 4, 2012, ODOE issued a supplemental public notice on the Notice of Intent for the
18 Project. This notice extended the comment period to October 18, 2012 and provided additional
19 information about the local land use approval process. At the close of the comment period on
20 October 18, 2012, ODOE had received approximately 28 written comments from members of the
21 public. Public comments are discussed further in Section IV. ORS 469.480(1) requires the Energy
22 Facility Siting Council ("EFSC") to designate as a Special Advisory Group the governing body of any
23 local government within whose jurisdiction a facility is proposed to be located. On February 2,
24 2012, EFSC appointed the Coos County Board of Commissioners as a Special Advisory Group to
25 advise EFSC in any site certificate or site certificate amendment proceedings for the South Dunes
26 Power Plant.

27 In accordance with OAR 345-020-0040, the NOI was distributed to the Special Advisory Group and
28 reviewing agencies requesting comments no later than October 18, 2012. At the close of the
29 comment period the Department had received comments from the following:

- 30 • Oregon Department of Geology and Mineral Industries
- 31 • Oregon Coastal Management Program
- 32 • Oregon Department of Environmental Quality
- 33 • Oregon Department of Fish and Wildlife
- 34 • Oregon Water Resources Department
- 35 • Oregon State Historic Preservation Office (SHPO),

- 1 • Oregon Historic Trails Advisory Council
- 2 • United States Fish and Wildlife Service

3 On November 30, 2012, the Applicant submitted an Amended Notice of Intent, which includes
4 several changes related to an increase in the nominal generating capacity of the facility from 380
5 megawatts to 420 megawatts. On December 4, 2012, ODOE issued a public notice of the Amended
6 NOI to the EFSC mailing list and to adjacent property owners. The public notice requested public
7 comments on the Amended NOI by 5:00 p.m. on January 4, 2013. ODOE received five additional
8 public and agency comments on the Amended NOI.

9 Comments received from reviewing agencies are also discussed in Section IV.

10 **B. EFSC Regulatory Framework**

11 Issuance of an EFSC site certificate is governed by the statutory requirements in ORS 469.300 et
12 seq. and administrative rules in OAR chapter 345. The following divisions of OAR Chapter 345
13 include rules related to either application requirements, EFSC review of an application, or
14 construction and operation of an approved facility:

15 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes the regulatory
16 standards by which the Energy Facility Siting Council must evaluate the proposed facility. In
17 addressing each of the Division 21 application requirements, the applicant should refer to the
18 Division 22 standard to which the requirement relates to ensure the application is responsive to
19 the standards by which it must be evaluated.

20 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional
21 standards for specific types of EFSC applications. In addressing the Division 21 application
22 requirements, the application should refer to all Division 23 standards, except for the specific
23 standards for wind facilities and underground gas storage reservoirs, to ensure the application is
24 responsive to these standards.

25 **OAR Chapter 345, Division 26** (Construction and Operation Rules for Facilities) includes the
26 compliance plan requirements that will apply if the Council issues a site certificate for the
27 proposed facility. In addressing the Division 21 application requirements, the applicant should
28 refer to the compliance plan requirements, described in OAR 345-026-0048 and reporting
29 requirements, described in OAR 345-026-0080, to ensure that the facility, as proposed, can
30 comply with these standards. Note that, if a site certificate is issued, the certificate holder must
31 also comply with construction-related regulations that apply to the proposed facility. As provided
32 under ORS 469.401(4), the site certificate does not address these regulations.

33 **OAR Chapter 345, Division 27** (Site Certificate Conditions) includes the mandatory conditions that
34 EFSC must apply to all site certificates, as well as applicable site-specific and monitoring
35 conditions. In addressing the Division 21 application requirements, the applicant should include

1 proposed language for conditions upon which the application relies and that will be necessary to
2 ensure compliance with Council standards related to those application requirements.

3 **OAR 345-027-0020(5)** requires that an applicant have construction rights on the property before
4 beginning construction. Construction rights include all legal rights to engage in construction
5 activities, including the legal right to access the property.

6 Following the Department’s receipt of agency and public comments on an NOI, ORS 469.330(3)
7 and OAR 345-015-0160(1) require the Department to issue a project order to the applicant, which
8 includes all of the application requirements for the proposed facility. Accordingly, the Department
9 issues this project order establishing the requirements for a site certificate application for the
10 South Dunes Power Plant. The definitions in ORS 469.300 and OAR 345-001-0010 apply to the
11 terms used in this project order, except where otherwise stated or where the context indicates
12 otherwise. As provided in ORS 469.330(4), the Department or the Council may amend this project
13 order at any time.

14 **II. APPLICATION REQUIREMENTS**

15 OAR Chapter 345, Division 21 includes the site certificate application requirements. The applicant
16 is advised to review and address all Division 21 requirements as they relate to the proposed
17 facility. The applicant must adhere to the general requirements under OAR 345-021-0000,
18 particularly the submittal of information in sections (6) and (7) regarding the status of non-
19 federally-delegated and federally delegated permits. OAR 345-021-0010(1) specifies the
20 particular the required contents of an application for site certificate. Each of the paragraphs
21 below indicates which provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the South Dunes
22 Power Plant. The application must include a table of contents, as described in OAR 345-021-
23 0010(3) and comply with the submittal requirements of that rule.

24 **(a) Exhibit A – General Information about the Applicant**

25 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

26 Paragraphs (A) through (D) apply.

27 **Discussion**

28 Note that paragraph (B) calls for information regarding “participating persons, other than
29 individuals,” which includes any entities or other persons upon which the applicant will rely
30 for third-party permits. “Person” is defined in OAR 345-001-0010(45).

31 **(b) Exhibit B – General Information about the Proposed Facility**

32 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

1 All paragraphs apply except (A)(vi)(vii) and (viii). Paragraph (D) applies only if any of the
2 proposed alternative transmission lines associated with the SDPP meets the definition of an
3 energy facility under ORS 469.300.

4 **Discussion**

5 The description of the proposed facility will form the basis for the description of the facility in
6 the site certificate. The site certificate will require that the applicant construct the facility
7 “substantially as described.” Exhibit B will also provide the basis for the project description in
8 the notice of application that ODOE will issue to reviewing agencies and the public. Therefore,
9 Exhibit B should describe the project in enough detail for reviewing agencies and members of
10 the public to make informed comments; and should describe the project sufficiently for ODOE
11 staff to verify that the construction project will meet any representations that are the basis for
12 any findings of compliance with applicable regulations or standards.

13 The application should include a physical description of the location of all facility components
14 including, but not limited to, turbine generator buildings, outdoor heat recovery steam
15 generators, cooling towers, water treatment building, water tanks, control and administration
16 building, retention or evaporation ponds, generators, auxiliary transformers, switchyard,
17 access roads, road modifications, transmission lines, and interconnection facilities. The
18 applicant must describe any improvement or modification of existing structures, including
19 roads.

20 **(c) Exhibit C – Location**

21 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

22 All paragraphs apply.

23 **Discussion**

24 Maps included in the application should provide enough information for property owners
25 potentially affected by the facility to determine whether their property is within or adjacent to
26 the site. Major roads should be named. As required by OAR 345-021-0010(1)(c)(A), the
27 applicant should include maps drawn to a scale of 1 inch = 2,000 feet or a scale sufficient
28 enough to show detail. Maps should indicate the “site boundary” as defined in OAR 345-001-
29 0010(55) and should include GIS shapefiles clearly identifying the site boundary.

30 **(d) Exhibit D – Organizational Expertise**

31 **Related Council Standard:** Organizational Expertise [OAR 345-022-0010]

32 All paragraphs apply.

33 **Discussion**

1 Regarding the ability to successfully construct the project “in accordance with site certificate
2 conditions,” the Council’s review is not limited to the applicant’s expertise to construct the
3 proposed facility. The application must also demonstrate that the applicant has the
4 organizational expertise to comply with all commitments and conditions regarding
5 minimization and mitigation of impacts on the resources protected by Council standards and
6 applicable regulations of other agencies.

7 Exhibit D should include a safety and environmental regulatory compliance history for the last
8 three years that is focused on similar facilities owned or operated by the applicant. If
9 possible, evidence of successful completion of mitigation projects should be provided.

10 **(e) Exhibit E – Permits**

11 **Related Council Standards:** General Standard of Review [OAR 345-022-0000(1)] All paragraphs
12 apply.

13 **Discussion**

14 The state and federal permits listed in this Project Order represent a preliminary assessment
15 of all permits that may be required for the facility. Some listed permits may not be applicable
16 to the specific circumstances of the facility proposed in the application for site certificate. In
17 such cases, the application should describe why the permit does not apply.

18 State permits within the Council’s jurisdiction as well as permits that are necessary but
19 outside the Council’s jurisdiction, should each be described and discussed separately.
20 Discussion of permits within the Council’s jurisdiction may be cross-referenced to the relevant
21 Exhibit where that permit is evaluated.

22 For federally-delegated permits needed for construction or operation, the applicant must
23 submit a copy of the permit application to the Department, as required under OAR 345-021-
24 0000(7).

25 The following federally-delegated permits are relevant to this application:

26 **Oregon Department of Environmental Quality — Air Quality Division**

27 **Related Statute and Rule References**

- 28 • 40 CFR Part 72 (Acid Rain Permits Regulation)
- 29 • ORS Chapters 468A (Air Quality)
- 30 • OAR Chapter 340, Division 216 (Air Contaminant Discharge Permits)
- 31 • Division 218 (Oregon Title V Operating Permits)
- 32 • Division 224 (Major New Source Review)

1 **Related Permits**

- 2 • Air Contaminant Discharge Permit (ACDP)
- 3 • Prevention of Significant Deterioration (PSD) Permit
- 4 • Acid Rain Permit (Title IV)
- 5 • Federal Operating Permit (Title V)

6 **Discussion**

7 The Environmental Protection Agency (EPA) has delegated authority to ODEQ to administer

8 the air quality Title V permit program. The Council does not have authority over these

9 federally delegated permits. However, the Council may rely on the determinations of

10 compliance and the conditions in federally delegated permits in determining compliance with

11 other standards and requirements under Council jurisdiction. In accordance with OAR 345-

12 021-0000(7), if a PSD or ACDP permit is required by ODEQ the applicant must submit to the

13 Department one copy of the required permit applications, or provide a schedule of the date

14 by which the applicant intends to submit the application. Note that the Department will not

15 be able to deem the application for site certificate complete before receiving a copy of the air

16 permit application and a response letter from ODEQ. The applicant may incorporate this

17 information into Exhibit Y of the site certificate application. Transport of air quality emissions

18 can lead to both near field and distant impacts that affect both human health, the

19 environment, and visibility. Table J-2 of the NOI provides estimated potential annual emission

20 rates from the proposed facility.

21 The NOI states that the facility will be designed with the potential to emit at least one criteria

22 pollutant in excess of 100 tons per year, and will be considered a “federal major source,” as

23 defined in OAR 340-200-0020. Therefore, the ODEQ will require the facility to obtain a PSD

24 permit. To support a PSD permit application, the ODEQ will require the applicant to prepare

25 an air quality analysis for determining whether the ambient air quality standards and PSD

26 increments will be exceeded in Class I and Class II areas as described in OAR 340-204-0050.

27 The applicant will also be required to include an Air Quality Related Values (AQRV) analysis for

28 Class I areas as described in OAR Chapter 340, Division 225.

29 EPA has established secondary National Ambient Air Quality Standards (NAAQS) to protect

30 public welfare, including protection against damage to animals, crops, vegetation, buildings as

31 well as visibility impairment. The ODEQ will require that the applicant demonstrate that its

32 ambient impacts are less than the secondary NAAQS.

33 **Oregon Department of Environmental Quality — Water Quality Division**

34 **Statute and Rule References**

- 35 • ORS Chapter 468B (Water Quality)

- 1 • OAR Chapter 340, Division 40 (Groundwater Quality Protection)
- 2 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF
- 3 Permits)
- 4 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
- 5 Requirements and Standards)
- 6 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)
- 7 • OAR Chapter 340, Division 216 (Air Contaminant Discharge Permits)

8 **Permits**

- 9 • Individual National Pollutant Discharge Elimination System Permit (NPDES)
- 10 • NPDES Construction Storm Water 1200-C permit
- 11 • Clean Water Act Section 401 Water Quality Certificate
- 12 • Water Pollution Control Facilities (WPCF) permit
- 13 • Pretreatment Agreement
- 14 • Onsite wastewater system permits, as applicable OAR Chapter 340, Division 48
- 15 (Certification of Compliance with Water Quality Requirements and Standards).

16 **Discussion**

17 The EPA has delegated authority to ODEQ to issue NPDES Storm Water Discharge permits for
18 construction and operation activities.

19 In accordance with OAR 345-021-0000(7), the applicant must submit to the Department one
20 copy of all applications for federally-delegated permits (including NPDES permits), or provide a
21 schedule of the date by which the applicant intends to submit the application. Note that the
22 Department will not be able to determine the application for site certificate complete before
23 receiving a copy of the NPDES permit application and a response letter from the ODEQ. The
24 ODEQ response letter must state that the agency has received a permit application from the
25 applicant, and provide an estimated date when the agency will complete its review and issue a
26 permit decision. The applicant may incorporate this information into Exhibit I (Soils) of the
27 site certificate application or submit it separately in Exhibit BB.

28 If a Section 404 Permit is needed from U.S. Army Corps of Engineers for the discharge of
29 dredge or fill material in Oregon's waters, a Section 401 Water Quality Certificate must be
30 granted by ODEQ before a Section 404 permit may be issued. If a Section 401 Water Quality
31 Certificate is required, it is a state permit under Council jurisdiction. The applicant must
32 include in the application for a site certificate an itemized demonstration of each applicable
33 provision in OAR 340-048-0020.

1 **(f) Exhibit F – Property Owners**

2 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

3 The general requirements and Paragraph B apply.

4 **Discussion**

5 The proposed facility site is not located within the Coos County urban growth boundary or in a
6 farm or forest zone. Accordingly, pursuant to paragraph B, for purposes of this notification
7 requirement, property adjacent to the site boundary means property within 250 feet from the
8 site boundary).

9 The Council requires notice to all owners of record, as shown on the most recent property tax
10 assessment roll within the specified distance from the proposed site boundary. In addition,
11 the applicant should consult the notification requirements for other agency permit(s) under
12 the council’s jurisdiction (for example, a DSL removal-fill permit), to ensure the most inclusive
13 notification requirements are met for purposes of any special mailing list necessary for
14 compliance with OAR 345-015-0220(2)(b).

15 In order to ensure the application issued for public comment has the most up-to-date
16 property owner list, Exhibit F in the preliminary Application for Site Certificate should indicate
17 that, pursuant to direction by the Department, the property owner list will be generated prior
18 to the Department’s determination of application completeness and in coordination with the
19 Department. The property owner notification list must be accompanied by one or more maps
20 that include the site boundary, from the area surrounding the site boundary consistent with
21 the OAR 345-021-0010(1)(f)(B) site distance requirement, and the properties/tax lots that are
22 within the applicable site distance. The list should also be annotated to indicate property
23 owners who are included on the list to meet the notification requirements of other state
24 agencies that will be issuing required permits.

25 **(g) Exhibit G – Materials Analysis**

26 **Related Council Standards:**

- 27 • Protection of public health and safety [ORS 469.310]
- 28 • General Standard of Review [OAR 345-022-0000]
- 29 • Soil Protection [OAR 345-022-0022]

30 All paragraphs apply.

31 **Discussion**

32 The applicant must identify any chemicals that may be used in the cooling towers and/or in
33 the process wastewater evaporation ponds. If a solid precipitate is created or if any other
34 liquids or solids requiring disposal will accumulate (such as in the evaporation ponds, or

1 material generated during maintenance activities), the applicant must provide information
2 concerning the storage, treatment, and/or disposal of the material. If the applicant plans to
3 send waste materials offsite to a licensed facility for treatment and/or disposal the application
4 must describe the method that will be used to demonstrate that the material will not pose a
5 threat to human health and the environment during storage or transport. The materials
6 analysis to identify any hazardous materials whose storage could affect site restoration

7 The application must include information on hazardous materials use and storage for use in
8 determining the potential for spills that could adversely affect soils and potentially affect the
9 cost and success of site restoration. The site certificate application should include sufficient
10 information on plans and programs for storage of hazardous materials and management of
11 hazardous waste for DEQ to comment on their adequacy. The ODEQ Hazardous Waste
12 program (ORS Chapters 465 and 466 (Hazardous Waste and Hazardous materials 1 and 11)
13 implements requirements of the EPA and is a federally-delegated program. The applicant
14 must comply with ODEQ regulations concerning the storage and management of hazardous
15 materials and the clean-up and disposal of hazardous waste.

16 **(h) Exhibit H – Geologic and Soil Stability**

17 **Related Council Standard:** Structural Standard [OAR 345-022-0020]

18 **Reviewing Agency:** Department of Geology and Mineral Industries (DOGAMI)

19 All paragraphs apply.

20 **Discussion**

21 DOGAMI provides technical review and recommendations on compliance with the Council's
22 structural standard. The applicant must provide evidence of consultation with DOGAMI
23 regarding the level of geologic and geotechnical investigation practical for the application.

24 The site is located within the 1995 DOGAMI SB 379 tsunami inundation line referred to in the
25 Oregon Structural Specialty Code and the 2012 DOGAMI tsunami hazard maps.

26 The application should include a thorough geological characterization of the project area and
27 surrounding area and a site-specific geologic hazard and geotechnical assessment (including
28 seismic, tsunami, lateral spreading, subsidence, surface fault rupture, flood, and channel
29 migration hazards) at the proposed facility with supporting evidence to show that the facility
30 can be safely constructed and operated. This analysis should include recently published
31 scientific findings (or example papers published about the Japan 2011 earthquake and
32 tsunami) and hazard maps (for example landslide and tsunami maps for Coos County,
33 Oregon).

34 The application should include all results of field and laboratory investigations and any other
35 geotechnical and geologic hazard site evaluations that have been conducted. A thorough
36 ground shaking amplification, liquefaction, and lateral spread analysis with all of the

1 calculations, methodologies, and recommendations based on this site-specific analysis will be
2 required. Any geotechnical reports included in Exhibit H as supporting evidence that the
3 proposed facility will meet the Council’s structural standard should follow the guidelines of
4 DOGAMI’s “Open File Report 00-04 “Guidelines for Engineering Geologic Reports and Site
5 Specific Seismic Hazard Reports.”

6 Note that OAR 345-021-0010(1)(h), paragraphs (F)(i), and (F)(iv) may contain references to
7 outdated guidelines and codes. ODOE requests that the applicant consult directly with
8 DOGAMI, determine the most current structural standards that apply to their proposed
9 facility, and use those codes to prepare Exhibit H. The application should clearly note which
10 codes and guidelines were used to prepare the information in Exhibit H. Exhibit H should also
11 provide evidence that the current codes are equivalent to or more stringent than those cited
12 in OAR 345-021-0010(1)(h), and that the applicant agrees to construct the facility in
13 accordance with current codes and guidelines.

14 **(i) Exhibit I – Soils**

15 **Related Council Standard:** Soil Protection [OAR 345-022-0022]

16 **Reviewing Agency:** Department of Environmental Quality

17 All paragraphs apply.

18 **Discussion**

19 The applicant should include information describing all soil types and land uses, and measures
20 proposed to maintain soil productivity during construction and operation, including a detailed
21 discussion of proposed erosion control. A draft erosion and sediment control plan must be
22 provided for review unless incorporated into the federally-delegated NDPES 120-C permit
23 application. The NPDES permit application should be included as an attachment.

24 **(j) Exhibit J – Jurisdictional Waters**

25 **Related Council Standard:** General Standard of Review [OAR 345-022-0000(1)]

26 **Other Related Standards:**

- 27 • ORS 196.795-.990 (Removal of Material, Filling)
- 28 • OAR Chapter 141, Division 85 (Administrative Rules Governing the Issuance and
29 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including
30 Wetlands)

31 **Reviewing Agency:** Division of State Lands

32 **Related Permits:**

- 1 • A removal-fill permit is required if any removal or fill activities occur in streams
2 designated as Essential Indigenous Anadromous Salmonid Habitat (ESH) or 50 cubic
3 yards or more of material is removed, filled or altered within a jurisdictional water of
4 the State (OAR 141-085-0520(2) and (4)). Removal-fill permits are state permits under
5 Council jurisdiction.¹
- 6 • A US Army Corps of Engineers Section 404 Permit is also required for the discharge of
7 dredged or fill material in Oregon's waters.

8 All paragraphs apply.

9 **Discussion**

10 The Applicant should consult directly with DSL regarding the applicable regulations. Any
11 compensatory wetland mitigation sites located near the project are also protected by state
12 law.

13 The application for site certificate should include information establishing whether any
14 removal-fill permits will be required. If a removal-fill permit is required, the application for site
15 certificate should include a concurred delineation from DSL and a complete application for an
16 individual permit which demonstrates consistency with ORS 196.825(1) and provides enough
17 information for considerations under ORS 196.825(3). The individual permit application must
18 demonstrate independent utility for the portion of the project that is within EFSC jurisdiction,
19 minimization of impacts to water resources, and best use of waters of the state.

20 A Compensatory Wetland Mitigation Plan which meets the requirements of OAR 141-085-
21 0680 through OAR 141-085-0715 must provided to replace all lost functions and values
22 provided by impacted wetlands and waterways.

23 If the project requires any dredge or fill of water bodies, the applicant must submit to the
24 Department one copy of an application for a federally-delegated Section 404 permit, in
25 accordance with OAR 345-021-0000(7). The DSL (removal-fill permit) and the U.S Army Corps
26 of Engineers (Corps) (Section 404 permit) use a joint application form. The applicant must also
27 provide a letter or other indication from the Corps stating that the agency has received a
28 permit application from the applicant, identifying any additional information the agency is
29 likely to need from the applicant based on the agency's review of the application as

¹ DSL also points out that some non-jurisdictional components described in the Amended NOI, such as the proposed Jordan Cove LNG terminal and Pacific Connector pipeline, may require a Removal Fill Permit from DSL independent of the EFSC process.

1 submitted, and estimating the date when the agency will complete its review and issue a
2 permit decision.

3 The Council does not have jurisdiction over the federally-delegated Section 404 permit, but
4 the Council may rely on the determinations of compliance and the conditions in the federally-
5 delegated permit in making its determination about whether other standards and
6 requirements under the Council's jurisdiction are met.

7 **(k) Exhibit K – Land Use (Statewide Planning Goals)**

8 **Related Council Standard:** Land Use [OAR 345-022-0030]

9 **Reviewing Agency:** Department of Land Conservation and Development

10 **Special Advisory Group:** Coos County Board of Commissioners

11 **Related Permits:**

- 12 • Coastal Zone Certification under the Coastal Zone Management Act
- 13 • All required local land use approvals, including but not limited to Site and Design Review
14 and/or Conditional Use Permit, if necessary.

15 **Discussion**

16 ORS 469.504 requires evaluation of all site certificate application for compliance with the
17 Statewide Planning Goals. The proposed facility must comply with the Council's General
18 Standard regarding Land Use (OAR 345-022-0030) to ensure the facility complies with
19 statewide planning goals adopted by the Land Conservation and Development Commission.
20 The NOI indicates that the applicant intends to seek local land use approvals under ORS
21 469.504(1)(a) to establish compliance with applicable statewide planning goals. The final
22 election of the process by which the applicant shall establish compliance with the land use
23 standard need not be made until the application for site certificate is submitted. However,
24 once made in the application, the election is final.

25 DLCD issues no permit for compliance but may provide additional review for compliance with
26 statewide planning goals and directly applicable DLCD rules. Coastal Zone Management Act
27 certification is required for activities in managed areas.

28 The NOI states that the applicant will obtain local land use approvals under ORS 469.504(1)(a)
29 (Path A). The applicant may change this election before the application is submitted, but the
30 election is final when the application is submitted.

31 If the applicant elects to obtain local land use approvals under Path A, paragraphs A and B
32 apply; paragraph C does not apply. If the applicant elects to obtain a Council determination
33 on land use, paragraphs A and C apply; paragraph B does not apply. The proposed facility is
34 not located on federal land so paragraph (D) does not apply.

1 The proposed site is located within Coos County and is zoned Industrial. In the NOI, the
2 applicant states that it intends to use "Path A," which means that it intends to meet the land
3 use standard by obtaining all required local land use approvals from Coos County. Under Path
4 A, the Application for Site Certificate must identify the affected local governments from which
5 land use approvals will be sought, describe the land use approvals required in order to satisfy
6 the land use standard, describe the status of the application for each approval, and provide an
7 estimate of time for issuance of local land use approvals.

8 Alternatively, if the applicant elects to proceed under Path B, the Council has the authority to
9 issue land use approvals based on the applicable substantive land use criteria from Coos
10 County acknowledged comprehensive plan and land use ordinances. On February 2, 2012 the
11 Council appointed Coos County as a Special Advisory Group, as required under ORS 469.480.
12 The applicable substantive criteria are those in effect on the date the preliminary application
13 is submitted, as defined by ORS 469.504(1)(b)(A). In addition, the application must identify
14 any Land Conservation and Development Commission administrative rules and goals and any
15 land use statutes that are not implemented through the Coos County acknowledged
16 comprehensive plans and are therefore directly applicable to the facility under ORS 197.646.

17 If the applicant elects to proceed under Path B, the applicant should include information
18 necessary to demonstrate compliance with the substantive criteria from the Coos County
19 comprehensive plans and land use ordinances that are applicable to review of all required
20 land use approvals and permits. As provided in ORS 469.401(3), if the Council issues a site
21 certificate, the affected county will be bound to issue all required permits, subject only to
22 conditions set forth in the site certificate.

23 Under Path B, the applicant should discuss each applicable comprehensive plan and land use
24 ordinance provision that contains substantive criteria and should demonstrate how the
25 proposed facility complies with those criteria. If the proposed facility does not comply with
26 one or more of the applicable substantive criteria, the applicant must demonstrate that the
27 facility nevertheless complies with the applicable statewide plan goals or that an exception to
28 goal compliance is justified under ORS 469.504(2).

29 **(I) Exhibit L – Protected Areas**

30 **Related Council Standard:** Protected Areas [OAR 345-022-0040]

31 All paragraphs apply.

32 The application should contain sufficient analysis of air quality impacts for the Council to
33 determine if the air emissions would have a significant adverse impact to the areas listed in its
34 Protected Area standard. For the proposed gas fired electric generating facility, this could
35 include, but not be limited to, visibility and plume occurrence. The air quality analysis should
36 include impacts from not only the turbine and auxiliary boiler stack, but also cooling towers

1 and any fugitive road dust. Any other sources not clearly defined in the NOI should also be
2 evaluated.

3 **(m) Exhibit M – Financial Capability**

4 **Related Council Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

5 All paragraphs apply.

6 **(n) Exhibit N – Need for the Facility**

7 Exhibit N does not apply.

8 **(o) Exhibit O – Water Use**

9 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

10 **Related Standards:**

- 11 • Ground Water Act of 1955 [ORS 537.505]
- 12 • OAR Chapter 690, Division 310 (Water Right Application Processing)
- 13 • OAR Chapter 690, Division 380 (Water Right Transfers)

14 **Reviewing Agency:** Oregon Water Resources Department (OWRD)— Water
15 Rights/Adjudications Division

16 All paragraphs apply.

17 **Discussion**

18 The NOI indicates water supply will be contracted with the Coos Bay North Bend Water Board.
19 The Applicant will be required to obtain a letter from the Coos Bay North Bend Water Board
20 stating that the Board has the capacity to provide all the water requested during peak
21 capacity demand days and listing the permits or certificates necessary to support this use. If
22 the Applicant is unable to obtain this documentation, the Applicant will have to show how
23 much storage it will need to augment demand during peak demand days.

24 The application must identify the sources of water to be used during construction and
25 operation of the proposed facility, the water right under which the water would be provided,
26 the quantity of water needed, and the means of disposal of all water discharges from the
27 proposed facility. The application should include evidence and analysis to determine whether
28 a new water right or water right transfer is required and, if so, evidence that supports a
29 finding by the Council that the water right should be issued by OWRD — Water
30 Rights/Adjudications Division. (See ORS Chapter 537 (Appropriate of Water Generally) or
31 transfer of a water use under ORS Chapter 540 (Transfer or Forfeiture of Water Rights),

1 including a discussion and evaluation of all relevant factors, including those factors listed in
2 ORS 537.153(2) and 93), ORS 537.170(8) and OAR Chapter 690, 310 (Water Right Application
3 ‘Processing and 380 (Water Right Transfers.)

4 Water not obtained from a municipal supplier would require a Limited License. Because such
5 licenses cannot authorize use or discharge of water outside a single basin, multiple Limited
6 Licenses may be required. Limited Licenses are also under Council jurisdiction.

7 If a new water right or water right transfer or Limited License is required, the application
8 must include information to support a finding for issuance of a groundwater or surface water
9 permit under ORS Chapter 537 (Appropriation of Water Generally) or transfer of a water use
10 under ORS Chapter 540 (Transfer or Forfeiture of Water Rights), including a discussion and
11 evaluation of all relevant factors, including those factors listed in ORS 537.153(2) and (3), ORS
12 537.170(8) and OAR Chapter 690, Divisions 310 (Water Right Application Processing) and 380
13 (Water Right Transfers). The applicant should consult with the OWRD to ensure that all
14 information otherwise required by OWRD is included in the site certificate application.

15 If the facility does not need a groundwater permit, a surface water permit, or a water right
16 transfer, the application should include an explanation of why no such permit or transfer is
17 required for construction and operation of the proposed facility.

18 **(p) Exhibit P – Fish and Wildlife Habitat**

19 **Related Council Standard:** Fish and Wildlife Habitat [OAR 345-022-0060]

20 **Related Standards:** Fish and Wildlife Habitat Mitigation Policy [OAR 635-415-0025]

21 **Reviewing Agency:** Oregon Department of Fish and Wildlife (ODFW)

22 Related Permit: An In-Water Blasting Permit may be required if explosives would be used
23 during facility construction. All paragraphs apply

24 **Discussion**

25 Exhibit P should include analysis of how the evidence provided supports a finding by the
26 Council that the proposed facility meets the Council’s fish and wildlife protection standard.

27 Exhibit P should include information about the applicant’s survey and salvage plan to protect
28 the listed species during construction of the facility. This information may be incorporated
29 into a wildlife monitoring and mitigation plan as an attachment to Exhibit P.

30 ODFW provides technical review and recommendations on compliance with Council
31 standards. ODFW will base its review and recommendations on state wildlife policy and
32 threatened and endangered species policy including the following:

- 33 • ORS 496.012 and ORS 496.171-.192, Application, Administration and Enforcement of
34 Wildlife Laws.

- 1 • ORS 497.308, Wildlife Holding and Habitat Removal and Permits
- 2 • ORS 498.301-.346, Screening and By-pass Devices for Water Diversions or
- 3 Obstructions
- 4 • ORS 506.036, Protection and Propagation of Fish and
- 5 • ORS 506.109, Food Fish Management Policy
- 6 • ORS 509.140, Placing Explosives in Waters
- 7 • ORS 509.580-.910, related to Fish Passage
- 8 • OAR Chapter 635, Division 44 (Holding, Propagating, Protected Wildlife)
- 9 • OAR Chapter 635, Division 100 (Wildlife Diversity Plan),
- 10 • OAR Chapter 635, Division 412 (Fish Passage)
- 11 • OAR Chapter 635, Division 415 (Fish and Wildlife Habitat Mitigation Policy)

12 OAR Chapter 635, Division 415 (Fish and Wildlife Habitat Mitigation Policy) classifies six
13 habitat categories and establishes a mitigation goal for each category. The applicant must
14 identify the appropriate habitat category for all areas affected by the proposed facility and
15 provide the basis for each category designation, subject to ODFW review. The applicant must
16 show how it would comply with the habitat mitigation goals and standards by appropriate
17 monitoring and mitigation.

18 OAR Chapter 635, Division 425 (In-Water Blasting Permits) contains requirements for in-water
19 blasting activities. In the event that construction of the facility would require the use of
20 explosives on, under, or in Oregon waters or in a location that might affect fish or other
21 wildlife or their habitat, an in-water blasting permit would be required. An application for an
22 in-water blasting permit must include the information necessary to meet the requirements of
23 ORS 509.140 and OAR 635-425-0000 through 635-425-0050. In-water blasting permits are
24 state permits under Council jurisdiction.

25 **(q) Exhibit Q – Threatened and Endangered Species**

26 **Related Council Standard:** Threatened and Endangered Species [OAR 345-022-0070]

27 **Reviewing Agencies:**

- 28 • Oregon Department of Agriculture (ODA)
- 29 • Oregon Department of Fish and Wildlife (ODFW)

30 All paragraphs apply.

31 **Discussion**

1 The application should include a description, and the results of a field survey for the listed
2 plant species. The survey must be conducted by a person with expertise in field botany, plant
3 taxonomy, and biological conservation. The survey should be conducted during the time of
4 year when it is possible to identify any listed plants (usually when these plants are in flower or
5 fruit). The field survey report should include written descriptions of the survey methods and
6 areas surveyed. In addition to the ODFW, the Applicant should consult with the ODA Native
7 Plant Conservation Program, and federal wildlife agencies regarding field survey methods,
8 appropriate survey seasons, qualifications of field survey personnel, and the information to be
9 included in the field survey report.

10 The Oregon Department of Agriculture (ODA) provides technical review and
11 recommendations regarding compliance with the Council’s threatened and endangered
12 species standard (OAR 345-022-0070) as it relates to plant species and ODFW provides
13 technical review and recommendation as to fish and wildlife species.

14 OAR 603-073-0070 contains the state list of endangered and threatened plant species. ORS
15 Chapter 564 (Wildflowers; Threatened or Endangered Plants) and OAR 603-073-0080 gives
16 ODA the authority to designate candidate plants. If the applicant finds any state-listed
17 threatened or endangered plant species that may be affected by the proposed facility, the
18 application must address the requirements of OAR 603-073-0090(5)(d)(A)-(E).

19 OAR Chapter 635, Division 100 (Wildlife Diversity Plan) contains the State list of threatened
20 and endangered wildlife species. The application should include a list of both state- and
21 federally-listed endangered, threatened, and candidate plant species that have potential to
22 occur in the analysis area. The Applicant should identify these species based on a review of
23 literature, consultation with knowledgeable individuals, and reference to the list of species
24 maintained by the Oregon Biodiversity Information Center.

25 **(r) Exhibit R – Scenic Resources**

26 **Related Council Standard:** Scenic Resources [OAR 345-022-0080]

27 All paragraphs apply.

28 The application should include visual depictions of the project’s impact on scenic resources
29 within the analysis area.

30 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

31 **Related Council Standard:** Historic, Cultural, and Archaeological Resources [OAR 345-022-
32 0090]

33 **Reviewing Governments:** Affected Native American Tribes

1 **Reviewing Agency:** Oregon Parks and Recreation Department – State Historic Preservation
2 Office

3 **Related Permit:** An archaeological permit may be required to conduct archaeological
4 investigations.

5 All paragraphs apply.

6 **Discussion**

7 The application should include formal identification of Tribes by the Legislative Commission on
8 Indian Services, and include evidence of consultation with affected tribes, including, but not
9 necessarily limited to, the Confederated Tribes of Siletz Indians, the Confederated Tribes of
10 Coos, Lower Umpqua, and Siuslaw Indians, and the Coquille Indian Tribe regarding
11 archaeological and cultural sites and materials within the site boundary. (See OAR 345-001-
12 0010(52)(n)). The affected tribes provide technical review and recommendations in reference
13 to the Council’s Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090).

14 OPRD-SHPO provides technical review and recommendations related to the Council’s Historic,
15 Cultural and Archaeological Resources Standard as it relates to resources within its authority
16 (See ORS 97.745 (Indian Graves and Protected Objects); ORS 358.920 (Archaeological Objects
17 and Sites); ORS 390.010 (Outdoor Recreation); ORS 390.235 (Archaeological Sites and
18 Historical Material); and OAR Chapter 736, Division 51 (Archaeological Permits). The applicant
19 should work closely with SHPO to ensure that the applicant provides required information in
20 SHPO’s preferred formats.²

21 **(t) Exhibit T – Recreation**

22 **Related Council Standard:** Recreation [OAR 345-022-0100]

23 All paragraphs apply.

24 **(u) Exhibit U – Public Services**

25 **Related Council Standard:** Public Services [OAR 345-022-0110]

² Information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.501(11). Specific location information should not be included in the text of the application for a site certificate. Such information, including archaeological survey reports, should be provided separately and only after consultation with the Department.

1 **Reviewing Agencies: Oregon Department of Transportation (ODOT)**

2 **Related Permits:** ODOT Access Management Permit and Utility Facility Permit

3 All paragraphs apply.

4 **Discussion**

5 The application should include an analysis of estimated facility-related traffic during
6 construction and operation and the potential impact on traffic safety, including discussion of
7 transportation of heavy equipment and shipments of facility components during construction,
8 proposed transportation routes, anticipated traffic volume and potential damage to public
9 roads. The application must demonstrate that the proposed facility will not result in significant
10 adverse impact to the ability of public and private providers within the analysis area to
11 provide those services.

12 Any utility installations within the right of way of a state highway will require a Utility Facility
13 Permit issued by ODOT. (See OAR Chapter 734, Division 51 (Highway Approach and Access
14 Control), Division 55 (Pole Lines, Buried Cables, Miscellaneous Operations.) The applicant
15 should review the requirements of OAR 734-055-0080 concerning installation of utilities
16 within highway rights of way and provide adequate evidence to demonstrate the need for
17 longitudinal installations, if such installations will be proposed.

18 Any access from Oregon State highways would require a State Highway Approach Permit.
19 There are two components to state highway approach permits: the Permit to Construct a
20 State Highway Approach and a Permit to Operate, Maintain and use a State Highway
21 Approach (POMU). Review and approval of the permitting requirements for the Permit to
22 Construct a State Highway Approach may be within the Council's jurisdiction, in which case
23 the requirement to obtain a POMU from ODOT would become a condition of approval for the
24 site certificate.

25 **(v) Exhibit V – Solid Waste and Wastewater**

26 **Related Council Standard:** Waste Minimization [OAR 345-022-0120]

27 **Reviewing Agency:** DEQ (Water Quality Division)

28 **Related Permits:** Water Pollution Control Permit (WPCF)

29 All paragraphs apply.

30 **Discussion**

31 The NOI states that the wastewater stream from the cooling water, treatment of service
32 water, and condensate polisher backwash cycles will be sent to the Oregon International Port
33 of Coos Bay's Port Industrial Wastewater Line that originates in the SDPP site. No evaporation
34 ponds are proposed. The applicant should provide information demonstrating that the

1 volume of wastewater discharge that is estimated for the SDPP can be accommodated by the
2 port's sanitary system and that no onsite wastewater treatment system is required. (See OAR
3 Chapter 340, Division 71 (Onsite Wastewater Treatment Systems.)) Compressor wash water
4 will be stored on site in a holding tank and trucked off site for processing and disposal in an
5 approved facility.

6 The application must also include data and calculations used to determine the most efficient
7 size and location of the land application area, i.e., land application area that will achieve the
8 purpose of disposing of process wastewater giving due consideration to conservation of land,
9 soil and protection of surface and groundwater resources. The application must include data
10 and calculations used to determine the most efficient size of any process wastewater
11 evaporation pond, i.e., pond size that will achieve the purpose of disposing of process
12 wastewater giving due consideration to conservation of the water resource, including a
13 description of precipitate or other solid waste that would be generated by operation of a
14 process wastewater evaporation pond. The application must also include information about
15 obtaining a hazardous waste determination for excavated soils. If a WPCF permit is required
16 under OAR Chapter 340, Division 45 for a process wastewater evaporation pond, it is a state
17 permit that is under Council jurisdiction. The NOI also states that sanitary wastes will be
18 routed to a septic field. Septic system discharge will be regulated under an individual WPCF
19 permit. Regulations pertaining to WPCF permits are in OAR Chapter 340, Division 45. The
20 applicant must include in the application for a site certificate all information that would
21 otherwise be required by ODEQ in an application for the permit. The WPCF permit application
22 must include data and calculations used to determine the most efficient size and location of a
23 process wastewater evaporation pond.

24 **(w) Exhibit W – Facility Retirement**

25 **Related Council Standard:** Retirement and Financial Assurance [OAR 345-022-0050]

26 All paragraphs apply.

27 **Discussion**

28 The application must explain and justify the methodology used to estimate retirement costs.
29 Use of ODOE's current facility retirement calculator, *Site Restoration Cost Estimating Guide,*
30 *2011 version,* is recommended.

31 The Council's Retirement Standard also requires evidence that the site can be restored,
32 following facility retirement, to a useful, non-hazardous condition consistent with the city's
33 zoning.

34 **(x) Exhibit X – Noise**

35 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

1 **Related Statute and Rule References:**

- 2 • ORS 467.020 (Prohibition on emission of noise in excess of prescribed levels)
- 3 • ORS 467.030 (Adoption of noise control rules, levels, and standards)
- 4 • Noise Regulations for Industry and Commerce [OAR 340-035-0035]

5 **Reviewing Agency:** Oregon Department of Environmental Quality

6 All paragraphs apply.

7 **Discussion**

8 The proposed facility must comply with the noise control regulations applicable to industrial
9 facilities at OAR 340-035-0035 (ORS 467.020 and ORS 467.030 (Noise Control)); and OAR Chapter
10 340, Division 35 (Noise Control Regulations)).

11 The application must contain a noise analysis and information to support a Council finding that
12 the proposed facility, including any alternative systems proposed, will comply with the
13 requirements of OAR 340-035-0035.

14 Exhibit X should address each of the following:

- 15 • Identify all noise sensitive receptors on aerial and topographic maps in Exhibit X
16 within one-half mile of the Facility Site Boundary. Provide the distance between
17 facility components and the nearest noise sensitive receptors (as that term is
18 defined by ODEQ). Each noise sensitive receptor should be uniquely identified on all
19 maps, and tables provided within Exhibit X should show the receptor identification
20 number, an indication of the noise sources included in the analysis, the distance
21 between the noise source(s), and the receiver, and the predicted noise levels.
- 22 • Provide the reference sound level data used in predicting noise levels that will
23 radiate from the Facility. Provide the data as one-third octave bands as well as
24 overall sound level data. Provide information on the source of the reference data
25 and any assumptions made in using the data in the noise model, including directivity
26 information. Provide information about all noise mitigation measures included in
27 the noise modeling.
- 28 • Provide predicted noise levels resulting from construction and operation of the
29 proposed facility.
- 30 • Describe any measures the applicant proposes to reduce noise levels or noise
31 impacts or to address public complaints about noise from the facility.
- 32 • Describe any measures the applicant proposes to monitor noise generated by
33 operation of the facility.

1 **(y) Exhibit Y – Carbon Dioxide Emissions**

2 **Related Council Standard:** Carbon Dioxide Standard for Base Load Gas Plants [OAR 345-024-
3 0550]

4 All paragraphs apply.

5 **(z) Exhibit Z – Cooling Tower Impacts**

6 **Related Council Standards:**

- 7 • Protection of public health and safety [ORS 469.310]
- 8 • General Standard of Review [OAR 345-022-0000]

9 **Other Related Standards:**

- 10 • ORS 836.530 (Aviation – Rules and standards; orders; appeals)
- 11 • OAR Chapter 738, Division 70 (Physical Hazards to Air Navigation)

12 All paragraphs apply.

13 **Discussion**

14 Exhibit Z should provide an evaluation of visibility and safety impacts from cooling tower
15 plumes on aviation use at the Southwest Oregon Regional Airport. Specifically, the Applicant
16 should provide calculations on the size and density of cooling tower plumes as well as
17 frequency of occurrence based on historical weather data. The applicant will need to work
18 with the Southwest Oregon Regional Airport and the Oregon Department of Aviation to
19 determine what evaluations would need to be conducted in order to make a determination on
20 impacts and to evaluate mitigation alternatives.

21 **(aa) Exhibit AA – Electric and Magnetic Fields**

22 **Related Council Standards:**

- 23 • Protection of public health and safety [ORS 469.310]
- 24 • General Standard of Review [OAR 345-022-0000]

25 All paragraphs apply.

26 **(bb) Exhibit BB – Other Information**

27 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

28 No additional information is required.

1 **(cc) Exhibit CC – Other Law**

2 **Related Council Standard:** General Standard of Review [OAR 345-024-0000]

3 All requirements apply.

4 **(dd) Exhibit DD – Specific Standards**

5 **Related Council Standard:** Siting Standards for Transmission Lines [OAR 345-024-0090]

6 Paragraph (C) applies.

7 The applicant should include in Exhibit DD information to support findings by the Council that
8 the proposed facility complies with the Siting Standards for Transmission Lines (OAR 345-024-
9 0090).

10 **III. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

11 The analysis areas are the minimum areas the applicant must study for potential impacts from the
12 construction and operation of the proposed facility. The analysis areas described in this project
13 order do not limit the applicant’s responsibility to assess the potential impacts of the facility. They
14 are the areas in which significant adverse impacts from the proposed facility are likely to occur. If
15 significant impacts could occur beyond the analysis areas described here, the applicant must
16 assess those impacts in the application and show how the facility would comply with the
17 applicable standard with regard to the larger area where impacts could occur.

18 For all potential impacts, the analysis area includes all the area within the “site boundary” as
19 defined in OAR 345-001-0010(55).The site boundary includes temporary laydown and staging
20 areas, turn-around areas and equipment crane transport corridors (if required). The application
21 must include a description of the site boundary and provide maps, including GIS shapefiles,
22 showing the proposed site boundary.

23 The analysis areas are included in the following table:

Affected Standard or Resource	Exhibit	Analysis Area
Structural Standard	Exh. H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soils	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary and wetland areas hydrologically connected to wetlands within the site boundary.
Land Use	Exh. K	The area within the site boundary and one mile from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 20 miles from the site boundary.

Fish and Wildlife Habitat	Exh. P	The area within the site boundary and 0.5 miles from the site boundary.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.
Scenic and Aesthetic Values	Exh. R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary.
Recreational Opportunities	Exh. T	The area within the site boundary and 5 miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 10 miles from the site boundary, except that the application should include an evaluation of impacts to the nearest health care facilities, regardless of the distance of those facilities from the site boundary.

1

2 **IV. COMMENTS FROM THE PUBLIC AND REVIEWING AGENCIES**

3 **(a) Public Comments**

4 In addition to the applicable statutes, rules, and land use requirements listed in this Project Order,
5 the application must address issues arising from public comments following the informational
6 meeting on the NOI (OAR 345-015-0130). At the close of the NOI comment period on October 18,
7 2012, ODOE had received approximately 21 written comments from members of the public. At the
8 close of the comment period on the Amended NOI on January 4, 2013, ODOE had received three
9 additional written comments from members of the public.

10 ODOE has summarized the issues addressed in the public comments according to applicable
11 Council standards; however, the summary presented below is not a substitute for the original
12 comments, nor does it represent the opinions of ODOE or EFSC. Not all issues and questions
13 raised in public comment are matters within EFSC jurisdiction. The applicant should address all
14 public and agency comments that relate to compliance with any of the application requirements.

15 (1) Richard Knablin, North Bend, Ore. [August 23, 2012]

16 Mr. Knablin's comment requests that EFSC suspend review of the SDPP until FERC's
17 review of the Jordan Cove LNG terminal is completed.

18 (2) Ron Sadler, North Bend, Ore. [September 15, 2012]

19 Mr. Sadler's comment requests that EFSC suspend review of the SDPP until FERC's
20 review of the Jordan Cove LNG terminal is completed.

21 (3) John Hayes, Oregon Historic Trails Advisory Council [September 17, 2012]

1 Mr. Hayes' comment on behalf of OHTAC notes that the SDPP is in the vicinity of the
2 Jedediah Smith Trail, one of Oregon's 16 Historic Trails. He also states that one of
3 Smith's camps was on the north spit of Coos Bay, although information is somewhat
4 limited.

5 (4) Carol Fischer, Bandon, Ore. [September 17, 2012]

6 Ms. Fischer's comment requested an extension of the comment period on the NOI.

7 (5) Robert D. Fischer, Bandon, Ore. [September 17, 2012]

8 Mr. Fischer's comment stated that the site certificate review process for SDPP could not
9 commence until the completion of FERC's review of the Jordan Cove LNG terminal under
10 NEPA.

11 (6) Janice C. Williams, North Bend, Ore. [September 19, 2012]

12 Ms. Williams' comment raises concerns about air emissions, airport safety, and
13 earthquake and tsunami risks.

14 (7) Doug Heiken, Oregon Wild [September 20, 2012]

15 Mr. Heiken's comment raises concerns about earthquake and tsunami risk, proximity to
16 the airport, carbon dioxide emissions, compliance with statewide planning goals, and
17 impact of emissions on scenic and protected areas.

18 (8) Mary Rosenblum, Oregon Pilots Association [September 20, 2012]

19 Ms. Rosenblum's comment raises concerns about the impact of steam emissions from
20 the cooling tower and thermal plume from the combustion turbine at SDPP on aviation
21 at the Southwest Oregon Regional Airport.

22 (9) Lesley Adams, Rogue Riverkeeper [September 21, 2012]

23 Lesley Adams' comment raises concerns primarily related to the non-jurisdictional
24 Jordan Cove LNG terminal and Pacific Connector natural gas pipeline.

25 (10) Wim de Vriend, Coos Bay, Ore. [September 21, 2012]

26 Mr. de Vriend's comment raises concerns about air quality and earthquake and tsunami
27 risk, as well as several safety concerns about the non-jurisdictional Jordan Cove LNG
28 terminal and Pacific Connector natural gas pipeline.

29 (11) Jody McCaffree, Citizens Against LNG [September 21, 2012]

30 Ms. McCaffree's comment raises concerns about compliance with the Coastal Zone
31 Management Act, proximity to the Southwest Oregon Regional Airport, sequencing of
32 the review process with NEPA review of the non-jurisdictional Jordan Cove LNG
33 terminal, emergency response times, and several concerns detailed under summary
34 headings related to EFSC standards.

1 (12) Joe Serres, Friends of Living Oregon Waters (FLOW) [September 21, 2012]

2 Mr. Serres' comment on behalf of FLOW states that ODOE and EFSC's review of SDPP
3 should consider the impacts of the non-jurisdictional Jordan Cove LNG terminal. Mr.
4 Serres also raises concerns about the impact of gas sources being used by SDPP,
5 compliance with local land use regulations, and impacts to cultural resources.

6 (13) William and Maryann Rohrer [October 5, 2012]

7 Mr. and Mrs. Rohrer's comment raises concerns about whether wetland, wildlife, and
8 cultural resources surveys have been conducted on the "road/powerline corridor"
9 between SDPP and the Jordan Cove LNG terminal.

10 (14) Richard Knablin, [October 14, 2012]

11 Mr. Knablin forwarded comments originally submitted to FERC as part of the review of
12 the Jordan Cove LNG terminal and Pacific Connector natural gas pipeline. Mr. Knablin's
13 comments include concerns about proximity to the Southwestern Regional Airport, sea
14 rise caused by climate change, air quality, presence of pollutants in the bottom of Coos
15 Bay that could be dispersed as a result of dredging and construction, impact on salmon
16 runs, and earthquake and tsunami risk.

17 (15) Maryann Rohrer [October 15, 2012]

18 Ms. Rohrer's comment raises concerns about safety for area residents in the event of a
19 earthquake, fire, or explosion at the SDPP.

20 (16) Lynn Finegan, Roseburg, Ore. [October 15, 2012]

21 Lynn Finegan forwarded comments originally submitted to FERC as part of the review of
22 the Jordan Cove LNG terminal and Pacific Connector natural gas pipeline. These
23 comments primarily address the non-jurisdictional proposed LNG terminal and natural
24 gas pipeline, although some issues may be applicable to the South Dunes Power Plant.

25 (17) Janet C. Stoffel, Coos Bay, Ore. [October 16, 2012]

26 Ms. Stoffel's comment raises concerns about proximity to the airport, risk of terrorist
27 attacks, earthquake and tsunami risk, and air emissions.

28 (18) Janice C. Williams, North Bend, Ore. [October 16, 2012]

29 Ms. Williams' comment raises concerns about tsunami hazards, air pollution, and the
30 risk of plane crashes due to SDPP's proximity to the airport.

31 (19) Jody McCaffree, Citizens Against LNG [October 17, 2012]

32 Ms. McCaffree forwards comments submitted to FERC by the U.S. Army Corps of
33 Engineers as part of the review of the non-jurisdictional Jordan Cove LNG terminal and
34 Pacific Connector natural gas pipeline.

35 (20) Jody McCaffree, Citizens Against LNG [October 18, 2012]

1 Ms. McCaffree lists several concerns about SDPP and the non-jurisdictional Jordan Cove
2 LNG terminal and Pacific Connector natural gas pipeline, including noise and vibration
3 impacts, socioeconomics, Pacific Connector pipeline impacts, and impacts shale of
4 hydro-fracking.

5 (21) Joseph T. Morgan, MD, The Bay Clinic, LLP [October 18, 2012]

6 Dr. Morgan forwarded comments originally submitted to the Federal Energy Regulatory
7 Commission on the non-jurisdictional Jordan Cove LNG terminal. Dr. Morgan's
8 comments concern air quality impacts from the SDPP as well as various activities
9 associated with the LNG terminal.

10 (22) Ivan Maluski, Oregon Chapter Sierra Club [October 18, 2012]

11 Mr. Maluski's comments on behalf of the Sierra Club state that ODOE and EFSC should
12 fully assess the impacts of the Jordan Cove LNG terminal and Pacific Connector natural
13 gas pipeline in assessing whether SDPP meets EFSC's siting standards. The comment also
14 raises issues related to habitat for fish and wildlife, including threatened and
15 endangered species; a lack of demonstrated need for the project; and elements of the
16 combined facilities that could be within the tsunami inundation zone.

17 (23) Jan Dilley [October 18, 2012]

18 Ms. Dilley's comment expresses concerns about the adequacy of data being used to
19 ensure safety from tsunami inundation and/or a catastrophic earthquake.

20 (24) Courtney Johnson, CRAG, on behalf of Oregon Shores Conservation Coalition [October 18,
21 2012]

22 Ms. Johnson's comment on behalf of Oregon Shores raises concerns about the risks of
23 seismic hazards such as potential earthquake and tsunami events in the region and
24 impacts to habitat for threatened and endangered species.

25 (25) Mary Rosenblum, Oregon Pilots Association [January 3, 2013]

26 Ms. Rosenblum's comment noted that CASA, the Australian equivalent to the FAA, has
27 recently issued new regulations regarding the siting of plants that produce thermal
28 plumes beneath regulated airspace. Ms. Rosenblum added that she anticipates the FAA
29 adopting similar regulations, and will provide more information after participating in a
30 FAA work group on the topic on January 15.

31 (26) Courtney Johnson, CRAG, on behalf of Oregon Shores Conservation Coalition [January 3,
32 2013]

33 Ms. Johnson's comment on behalf of Oregon Shores references that organization's
34 October 2012 comments as well as noting that the Amended NOI states increased water
35 usage and that higher power production could result in increased air emissions from the
36 proposed facility. Ms. Johnson requests that EFSC pay particular attention to protection

1 of water quality and soils related to the stormwater management plans included in the
2 facility's local land use approval.

3 **(b) Reviewing Agency and Other Comments**

4 The Department has received comments on the South Dunes Power Plant NOI from the
5 Oregon Department of Aviation, Oregon Water Resources Department, Oregon Department
6 of Fish and Wildlife, Oregon Coastal Management Program, Oregon Department of
7 Environmental Quality, Oregon State Historic Preservation Office, Oregon Department of
8 Geology and Minerals, Oregon Department of State Lands, and US Fish and Wildlife Service.
9 These comments have been sent to the applicant for its consideration in development of a
10 preliminary application for site certificate, as required by OAR 345-015-0140. The applicant
11 should conduct an in-depth review of agency comments and work closely with each
12 commenting agency prior to the submittal of the preliminary application. The application
13 must include sufficient information for the Council to determine the adequacy of the
14 applicant's response to significant comments from reviewing agencies.

15 A summary of reviewing agency comments is presented below and these comments are
16 incorporated by reference in this order. All of the reviewing agency comments have been
17 provided under separate cover to the applicant. This summary is not intended to substitute
18 for careful review of each comment from a reviewing agency. The applicant should address
19 each specific concern detailed in the reviewing agency comments, either in the relevant
20 application exhibit or in Exhibit BB. The application must include sufficient information for the
21 Council to determine the adequacy of the Applicant's response to significant comments from
22 reviewing agencies.

23 (1) Oregon Department of Aviation

24 ODA recommended adherence to statutes related to the future use and growth of
25 Oregon's airports at ORS 836.600-.630 and the Airport Planning Rule at OAR 660-013-0010
26 through OAR 660-013-0160. ODA will require additional study related to the Southwest
27 Oregon Regional Airport, and the applicant will need to submit a Notice of Proposed
28 Construction or Alteration (FAA Form 7460-1) to the FAA and ODA for airspace analysis.

29 (2) Oregon State Historic Preservation Office (SHPO)

30 SHPO recommended that a lead federal agency be identified for this project, and that the
31 Department work with them to ensure compliance with Section 106 of the National
32 Historic Preservation Act. Cultural resources studies will need to be completed for
33 construction facility areas west of the railroad and highway section. Human burial areas
34 have already been located in close proximity to the project site, and therefore a
35 professional archaeologist should be on site to monitor activities.

36 (3) Oregon Department of Fish and Wildlife (ODFW)

1 ODFW considers the primary impacts from the SDPP to be disturbance and displacement
2 of wildlife as well as conversion of habitat resources. The ODFW recommends that these
3 habitats be categorized based on the ODFW Fish and Wildlife Mitigation Policy (OAR 635-
4 415-0025 www.dfw.state.or.us/OARs/415.pdf) and compensated for similarly to the main
5 JCEP terminal and slip.

6 Regarding aquatics, ODFW has the following comments: 1) The NOI has not identified if
7 water from the bay will be used for cooling of the SDPP. Additionally the distance the
8 project will be placed from the upper extent of tide may have impacts if the shoreline will
9 need rip-rapped. There also likely are wetland habitats present within the 130 acres of the
10 proposed project area. ODFW recommends that Fish and Wildlife Mitigation Policy (OAR
11 635-415-0000 through 0025) be utilized to categorize any estuary and upland wetland
12 aquatic habitats that may be impacted in order to provide framework for mitigation based
13 on habitat category. 2) The SDPP NOI does not identify that there will be direct invasive
14 aquatic species impacts to habitats below the highest extent of tidal influence.

15 Regarding uplands, ODFW has the following comments: 1) ODFW recommends that the
16 applicant complete an adequate habitat avoidance, minimization, and mitigation plan for
17 any anticipated impacts to fish and wildlife habitats, based on habitat categorization (1-6)
18 consistent with the ODFW Habitat Mitigation Policy. 2) The project could result in further
19 loss of habitat for native species and that corvids could benefit from the project, and prey
20 on snowy plover. ODFW recommends that the project proponents coordinate with local
21 ODFW staff throughout the planning and implementation of this project to minimize to
22 the greatest degree the colonization of the SDPP project area by both invasive plants and
23 wildlife. 3) Regarding habitat fragmentation, ODFW recommends that the SDPP project
24 consider construction/installation options allowing for wildlife corridors when possible
25 between isolated habitats that may continue to support avian wildlife and larger
26 mammals (bear, deer) post project. 4) ODFW recommends that analysis and discussion of
27 potential noise impacts on threatened and endangered (T&E) species and other sensitive
28 species occur for the SDPP development.

29 (4) Oregon Department of Environment Quality (DEQ)

30 DEQ provided an outline of the agency's role in the EFSC process and a list of DEQ-
31 administered state and federal permits that may pertain to construction or operation of
32 SDPP.

33 (5) Oregon Department of Geology and Mineral Industries (DOGAMI)

34 The NOI does not adequately acknowledge the need for geologic hazard evaluations,
35 which is important because of the generally high seismic and seismically induced hazards
36 at the facility location. DOGAMI disagrees with the statement on page E-8 of the NOI that,
37 "No SDPP facilities will be located in or proposed in the tsunami zone after fill placed
38 onsite," as the proposed location is located within the 1995 DOGAMI SB379 tsunami

1 inundation line and the 2012 DOGAMI tsunami hazard maps. DOGAMI also recommends
2 that new science regarding earthquakes and tsunamis be included as part of the
3 Application.

4 (6) Department of Land Conservation and Development/Oregon Coastal Management
5 Program

6 The Coastal Management Program does not have specific concerns at this time, but will
7 continue to work with ODOE throughout the process.

8 (7) Oregon Department of State Lands

9 DSL notes that since the Amended NOI describes a project that will involve removal, filling,
10 or alteration of 50 cubic yards or more of material within the bed or banks of the waters
11 of the state, or any amount within waters designated Essential Salmonid Habitat or State
12 Scenic Waterway, the project requires an individual permit from DSL as part of the EFSC
13 process.

14 (8) Oregon Water Resources Department

15 A limited license will be required if water is needed from a source other than a municipal
16 source for construction and operation.

17 (9) United States Fish and Wildlife Service

18 Efforts to protect the endangered western snowy plover will need to follow best
19 management practices including keeping construction sites free of litter and contouring
20 stored sand/dredge materials to discourage plover habitation. Threatened marbled
21 murrelet needs reduced construction noise at dawn and dusk during mating season.
22 USFWS requested continued pre-construction surveys for endangered western lily.

23 The SDPP site is located within the Pacific oceanic route of the Pacific Flyway for migratory
24 birds. The Service recommends that a migratory bird conservation plan be developed in
25 conjunction with the Application and that it address conservation measures that eliminate
26 or reduce the potential for avian collisions with SDPP infrastructure. Other nuisances and
27 attractants that may impact migratory birds include lighting and new perching structures
28 for predators. The migratory bird conservation plan should include conservation measures
29 during construction as well as during operation of the project. Development of an
30 overarching migratory bird conservation plan for the entire Jordan Cove Energy Project
31 (including the SDPP) and the Pacific Connector Gas Pipeline Project can address these
32 concerns specific to the SDPP. A migratory bird conservation plan will be required for the
33 entire Jordan Cove Export Terminal and the SDPP.

34 During previous Jordan Cove project planning phases, the Service and ODFW participated
35 in efforts to categorize impacted habitat types and qualities and to agree upon
36 appropriate mitigation offsets. These habitat categorizations and mitigations may overlap

1 with some or all of the SDPP construction footprint. Where these categorization and
2 mitigation commitments overlap with the SDPP footprint, the Service requests use of
3 these assessments and mitigations for SDPP. Where SDPP is outside of these existing
4 Jordan Cove habitat categorization and mitigation commitments, the Service requests that
5 a similar habitat characterization and mitigation commitment be carried forward through
6 the SDPP application process. On page G-4 of the NOI, the narrative in the upper left hand
7 corner of the map indicates that the California brown pelican is Federally endangered.
8 The brown pelican has been delisted due to recovery.

9 **V. EXPIRATION DATE OF THE NOTICE OF INTENT**

10 In accordance with OAR 345-20-0060, the South Dunes Power Plant NOI expires on August 1,
11 2014, unless the applicant petitions the Council for an extension. If the applicant does not submit
12 an application for a site certificate before the expiration of the NOI, the applicant must submit a
13 new NOI to satisfy ORS 469.330.

14 **VI. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

15 The Council or the Department may amend this project order at any time [ORS 469.330(4)].
16 Amendments may include changes to the analysis areas. To issue a site certificate, the Council
17 must determine that the proposed facility complies with all applicable Oregon statutes and
18 administrative rules identified in the project order, as amended [ORS 469.503(3)] and that the
19 application establishes that the proposed facility complies with all Council Standards contained in
20 OAR chapter 345, division 22.

21 Under OAR 345-015-0190(5), when the Department determines the application for a site
22 certificate contains adequate information for the Council to make findings on all applicable
23 Council standards, the Department may find the application for a site certificate complete,
24 regardless of whether the application for a site certificate contains all information required to
25 issue a site certificate under the standards in OAR chapter 345, division 22. 345-021-0010.
26 Notwithstanding a determination that an application for a site certificate is complete, the
27 Department may require additional information from the applicant if the Department identifies a
28 need for that information during its review of the application for a site certificate [OAR 345-015-
29 0190(9)].

1 **VII. APPLICABILITY AND DUTY TO COMPLY**

2 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this
3 project order does not render that statute, rule, ordinance, permit or other requirement
4 inapplicable, nor in any way relieves applicant from the duty to comply with the same.

5

6 **OREGON DEPARTMENT OF ENERGY**

7



8

9 Todd Cornett, Siting Division Administrator
10 Oregon Department of Energy

11

12 Project Order issued: February 14, 2013

13 Amended Project Order issued: October 14, 2013